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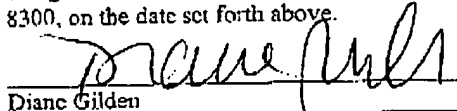
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| Send to: Nancy Johnson Senior Petitions Attorney | From: Jennifer H. Hamilton |
| Company: U.S. Patent and Trademark Office | Date: June 2, 2008 |
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- ☐ For your information

Total pages, including cover: 14

Comments:

| | |
|--|---|
| Inventor: | GHARAPETIAN, Ara H. |
| U.S. Appl. No.: | 10/037,208 |
| Filing Date: | January 4, 2002 |
| Title: | SYSTEM FOR TRANSMITTING CONTROL COMMANDS TO ELECTRONIC DEVICES |
| The Eclipse Group Docket No.: | HI06036USU (P01003US) |
| Please acknowledge receipt of the following Renewed Petition under 37 CFR 1.137(b): | |
| 1. Renewed Petition under 37 CFR 1.137(b) (2 pages) & duplicate (2 pages); | |
| 2. Statement of Jennifer H. Hamilton (3 pages); | |
| 3. Exhibit A to Statement of Jennifer H. Hamilton (1 page); and | |
| 4. Decision on Petition (5 pages). | |
| CERTIFICATE OF TRANSMISSION | |
| I hereby certify that this document (along with any papers referenced as being attached or enclosed) is being transmitted to the United States Patent and Trademark Office via facsimile to Fax No. (571) 273-8300, on the date set forth above. | |
|  Diane Gilden | |

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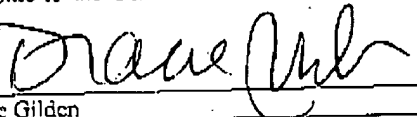
The Eclipse Group Docket No. HI06036USU (P01003US)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DOCKET NO.: HI06036USU (P01003US)
APPLICANT: GHARAPETIAN, Ara H.
TITLE: SYSTEM FOR TRANSMITTING CONTROL COMMANDS TO
ELECTRONIC DEVICES
SERIAL NO.: 10/037,208
FILING DATE: January 4, 2002
EXAMINER: Thuan N. Du
GROUP ART UNIT: 2116
CONFIRMATION NO.: 6472

CERTIFICATE OF TRANSMISSION

I certify that on 6/2/08, the
attached correspondence is being transmitted via
facsimile to the Commissioner for Patents at (571) 273-
8300.


Diane Gilden

Attn: Nancy Johnson
Senior Petitions Attorney
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

RENEWED PETITION UNDER 37 CFR 1.137(b)

Dear Ms. Johnson:

This is responsive to the Decision on Petition mailed March 31, 2008, for which a shortened statutory period for reply expires on May 31, 2008. Because May 31, 2008 occurred on a Saturday, this document is believed to be timely submitted on Monday, June 2, 2008. Therefore, this Renewed Petition is believed to have been timely filed under MPEP § 710.05.

Applicant's Petition for Revival of an Application for Patent Abandoned Unintentionally filed November 9, 2007 was dismissed because this Petition for Revival did not satisfy the

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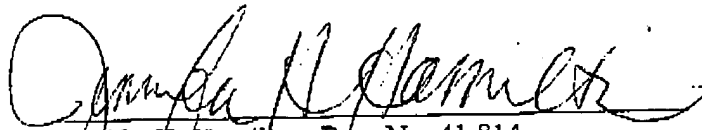
The Eclipse Group Docket No. HJ06036USU (P01003US)

requirements of 37 CFR § 1.137(b)(3) in that the Director "may require additional information where this a question whether was intentional." As required by the Decision on Petition, Applicant is submitting additional information as to why the delay in filing a response to the Office Action and in filing a Petition should be considered "unintentional" within the meaning of 37 CFR § 1.137(b).

On page 3 of the Decision on Petition, it is stated that "the application became abandoned effective September 9, 2005. Two years elapsed without any substantive action on the part of the petitioners." As set forth in the Statement of Jennifer H. Hamilton submitted herewith, Applicant was not made aware of the Notice of Abandonment until some time in September of 2007 and thereafter filed a Petition for Revival of an Application for Patent Abandoned Unintentionally in a timely manner. Moreover, Applicant did not deliberately allow the application for patent to go abandoned.

Accordingly, Applicant respectfully requests that the Petition for Revival of the above-identified application be granted and that the previously-submitted Response to Office Action Mailed June 8, 2005 be accepted for further prosecution on the merits.

Respectfully submitted,

Dated: 6/2/08

Jennifer H. Hamilton, Reg. No. 41,814
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Granada Hills, CA 91344
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Customer No.: 34408

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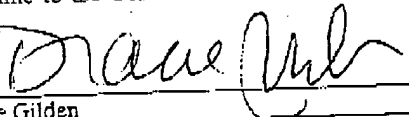
PATENT
The Eclipse Group Docket No. H106036USU (P01003USU)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DOCKET NO.: H106036USU (P01003USU)
APPLICANT: GHARAPETIAN, Ara H.
TITLE: SYSTEM FOR TRANSMITTING CONTROL COMMANDS TO
ELECTRONIC DEVICES
SERIAL NO.: 10/037,208
FILING DATE: January 4, 2002
EXAMINER: Thuan N. Du
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Diane Gilden

Attn: Nancy Johnson
Senior Petitions Attorney
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
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RENEWED PETITION UNDER 37 CFR 1.137(b)

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The Eclipse Group, Docket No. E1106036USU (P01003US)

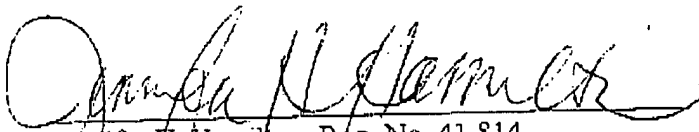
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On page 3 of the Decision on Petition, it is stated that "the application became abandoned effective September 9, 2005. Two years elapsed without any substantive action on the part of the petitioners." As set forth in the Statement of Jennifer H. Hamilton submitted herewith, Applicant was not made aware of the Notice of Abandonment until some time in September of 2007 and thereafter filed a Petition for Revival of an Application for Patent Abandoned Unintentionally in a timely manner. Moreover, Applicant did not deliberately allow the application for patent to go abandoned.

Accordingly, Applicant respectfully requests that the Petition for Revival of the above-identified application be granted and that the previously-submitted Response to Office Action Mailed June 8, 2005 be accepted for further prosecution on the merits.

Respectfully submitted,

Dated: 6/2/08



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PATENT
The Eclipse Group Docket No. HI06036USU (P01003US)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DOCKET NO.: HI06036USU (P01003US)
APPLICANT: GHARAPETIAN, Ara H.
TITLE: SYSTEM FOR TRANSMITTING CONTROL COMMANDS TO
ELECTRONIC DEVICES
SERIAL NO.: 10/037,208
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EXAMINER: Thuan N. Du
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8300.

Diane Gildea
Diane Gildea

Attn: Nancy Johnson
Senior Petitions Attorney
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

STATEMENT OF JENNIFER H. HAMILTON

Dear Ms. Johnson:

I, Jennifer H. Hamilton, submit this statement in support of the Renewed Petition Under
37 CFR § 1.137(b) filed concurrently herewith.

1. I am an attorney employed by The Eclipse Group LLP, an intellectual property
law firm, and a registered patent attorney, Reg. No. 41,814.

PATENT
The Eclipse Group Docket No. H106036USU (P01003US)

2. The Eclipse Group LLP has been engaged by Harman International Industries, Incorporated ("HI"), to continue the prosecution of the above-identified patent application for an invention disclosed by inventor Ara H. Gharapetian and entitled "System for Transmitting Control Commands to Electronic Devices."

3. Accordingly, the file for the patent application was transferred from Squire, Sanders & Dempsey L.L.P., the firm prosecuting this case, and received at the offices of The Eclipse Group LLP in Granada Hills, California, on or about July 14, 2006.

4. The file for the patent application received by The Eclipse Group LLP on or about July 14, 2006 did not contain a copy of the Final Office Action dated June 8, 2005 or the Notice of Abandonment dated April 10, 2006.

5. A Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address was filed with the USPTO on October 4, 2006.

6. Based upon The Eclipse Group LLP's patent docketing system, the undersigned believes that The Eclipse Group LLP first learned of the Notice of Abandonment some time in September of 2007, as CPI (Computer Packages Inc. Patent Managing System), shows the "Date Created" of September 24, 2007 for entry of the Notice of Abandonment as a pending Office action for Serial No. 10/037,208.

7. We filed a Petition to Revive the application on November 9, 2007, shortly after learning of the abandonment.

8. From our review of private Patent Application Information Retrieval ("PAIR") on the USPTO website for Patent Application Serial No. 10/037,208, it appears that the prior law firm, Squire, Sanders & Dempsey, LLP, in Los Angeles, CA, never received the Final Office Action mailed on June 8, 2005.

9. According to PAIR, the Final Rejection was returned to the USPTO "as undelivered," as the June 20, 2005 entry in PAIR described the Final Rejection as "Mail returned to USPTO as undelivered".

10. Attached as Exhibit A is a true and correct copy of page 10 of the document described as "Mail returned to USPTO as undelivered" entered on June 20, 2005 in PAIR for Patent Application Serial No. 10/037,208, which illustrates that no address could be seen in the envelope window for mailing.

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The Eclipse Group Docket No. H106036USU (P01003US)

11. Based on said Exhibit A, the undersigned believes that the Final Rejection mailed June 8, 2005 was not received by Squire, Sanders & Dempsey, LLP, and therefore was not included in the files for the above-identified application transferred to The Eclipse Group LLP.

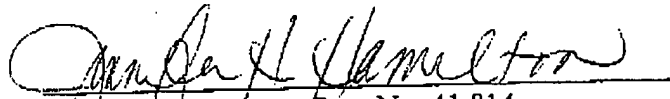
12. We are uncertain as to why the Notice of Abandonment was not in the file upon transfer. Nonetheless, neither the Final Office Action mailed June 8, 2005 or the Notice of Abandonment dated April 10, 2006 were in the file when received from the prior law firm on or about July 14, 2006.

13. The Eclipse Group LLP has not been advised by HI to delay or suspend the prosecution of the above-identified patent application for any reason whatsoever, nor has The Eclipse Group LLP advised HI of any reason to do so.

Based on the foregoing, the undersigned requests that the accompanying Renewed Petition be granted as Applicant has established that the entire delay in filing the required reply from the due date was intentional.

Respectfully submitted,

Dated: 6/2/08



Jennifer H. Hamilton, Reg. No. 41,814
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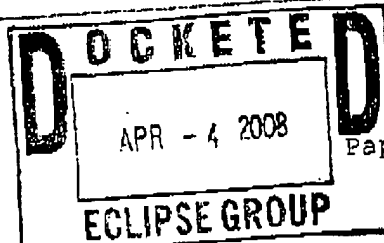
Exhibit A



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Paper No.

THE ECLIPSE GROUP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS CA 91344

COPY MAILED

MAR 31 2008

OFFICE OF PETITIONS

In re Application of
Ara Gharapetian
Application No. 10/037,208
Filed: January 4, 2002
Atty Docket No. H106036USU
(P01003US)

DECISION ON PETITION

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed November 9, 2007.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.137(b)."

The above-identified application became abandoned effective September 9, 2005, for failure to file a timely reply to the final Office action mailed June 8, 2005. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). A courtesy Notice of Abandonment was mailed on April 10, 2006.

The petition includes a proposed reply in the form of a request for continued examination and submission under §1.114 (and RCE fee), a statement of unintentional delay and payment of the petition fee set forth in 37 CFR § 1.17(m). No terminal disclaimer is deemed required at this time. However, the

Page 2

Application No. 10/037,208

instant petition is not grantable because it does not satisfy requirement 1.137(b)(3).

35 U.S.C. 133 provides that:

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

35 U.S.C. 41(a)(7) allows for payment of a fee to revive an application for a patent abandoned unintentionally. The legislative history of Public Law 97-247, § 3, 96 Stat. 317 (1982), reveals that the purpose of 35 U.S.C. 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion stating that "[u]nder this section a petition accompanied by [the requisite fee] would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable." H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), reprinted in 1982 U.S.C.C.A.N. 770-71.

Implementing regulations 37 CFR 1.137(b) provides, in pertinent part, that:

If the delay in reply by applicant was unintentional, a petition may be filed pursuant to this paragraph to revive an abandoned application. A grantable petition pursuant to this paragraph must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

Page 3

Application No. 10/037,208

- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

In this instance, the application became abandoned effective September 9, 2005. Two years elapsed without any substantive action on the part of petitioners. A power of attorney was filed on October 10, 2006. However, this petition, including the response to the Office action, was not filed until November 9, 2007. The petition includes a statement that the entire delay in filing the required reply from the due date was unintentional. Under the circumstances, additional information is requested.

The burden of proof to show that the cause of the delay was "unintentional" (or "unavoidable") is on applicant. Thus, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(a) or 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application.

It is well established that a delay resulting from a deliberately chosen course of action on the part of the applicant is not an "unintentional" delay within the meaning of 37 CFR 1.137(b). Where the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989). An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See In re Maldaque, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988). A delay resulting from a deliberately chosen course of action on the part of the applicant does not become an "unintentional" delay within the meaning of 37 CFR 1.137(b) because:

Page 4

Application No. 10/037,208

(A) the applicant does not consider the claims to be patentable over the references relied upon in an outstanding Office action;

(B) the applicant does not consider the allowed or patentable claims to be of sufficient breadth or scope to justify the financial expense of obtaining a patent;

(C) the applicant does not consider any patent to be of sufficient value to justify the financial expense of obtaining the patent;

(D) the applicant does not consider any patent to be of sufficient value to maintain an interest in obtaining the patent; or

(E) the applicant remains interested in eventually obtaining a patent, but simply seeks to defer patent fees and patent prosecution expenses.

Likewise, a change in circumstances that occurred subsequent to the abandonment of an application does not render "unintentional" the delay resulting from a previous deliberate decision to permit an application to be abandoned. These matters simply confuse the question of whether there was a deliberate decision not to continue the prosecution of an application with why there was a deliberate decision not to continue the prosecution of an application.

In view thereof, it is appropriate to request additional explanation as to why the delay in filing a response to the Office action and in filing a petition should be considered unintentional within the meaning of § 1.137(b).

Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

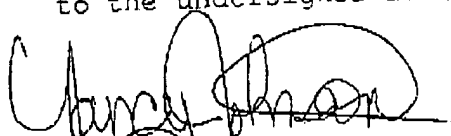
By FAX: (571) 273-8300
 ATTN: NANCY JOHNSON
 SENIOR PETITIONS ATTORNEY

Page 5

Application No. 10/037,208

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries specific to this matter should be directed
to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions